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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,254	01/04/2002	Thierry Valet	60559-301701	9462

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/040,254

Examiner

Jeff Piziali

Applicant(s)

VALET, THIERRY

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 18 December 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 5 Other:

First and foremost, the applicant is cordially thanked for the 'Response to Notice of Non-Compliant Amendment' filed 18 December 2006. However, at least one non-compliance error has been discovered in the aforementioned response, requiring attention before examination may continue.

The 'Remarks' section of the response states, "Applicant provisionally elects Species I with traverse. If the Examiner determines that Applicant has presumed incorrectly as to which claims the Examiner intended to include in Species I, clarification is respectfully requested. Applicant traverses the propriety of the restriction requirement by this election, as all of the claims pertain to the same species of the claimed invention" (see Page 5 of the 'Response to Notice of Non-Compliant Amendment' filed 18 December 2006).

Firstly, the response neglects to elect a Sub-Species (i.e., Sub-Species A or B), as required by the Restriction Requirement mailed 25 July 2006.

Furthermore, the response fails to provide a listing of all claims readable on the elected Species and Sub-Species. Although the applicant alleges "all of the claims pertain to the same species"; nowhere does the applicant identify if those claims pertain to the elected Species or the non-elected Species.

As explained in the Restriction Requirement (mailed 25 July 2006), "Applicant is advised that a reply to this requirement must include an identification of the Species and Sub-Species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added" (see Page 3, Bottom Paragraph of the Restriction Requirement mailed 25 July 2006). Therefore, the applicant's 'Response to Notice of Non-Compliant Amendment' filed 18 December 2006 renders it unclear which claims are considered by the applicant to be drawn to elected Species and Sub-Species.

The applicant is respectfully requested to identify which Species and Sub-Species are elected, as well as which pending claims are specifically drawn to the elected Species and Sub-Species.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The response has not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent response, yet another Notice of Non-Compliant Amendment will be necessitated. Applicant's cooperation is requested in correcting any other errors of which applicant may become aware.



Jeff Piziali

14 March 2007